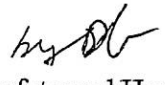


## Memorandum

To : Marley Hart, Executive Officer  
Occupational Safety and Health Standards Board  
2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833

Date: May 21, 2014

From : Juliann Sum, Acting Chief   
Division of Occupational Safety and Health

Subject: Division Evaluation of Petition File No. 540  
*Larry Bornstein*

This memorandum is written in response to the petition received by the Occupational Safety and Health Standards Board (Board) on February 15, 2014, regarding the application by Mr. Larry Bornstein (Petitioner) to amend Title 8, Subchapter 7. General Industry Safety Orders, to address risk factors associated with musculoskeletal injuries when employees manually retrieve shopping carts from parking lots.

Labor Code Section 142.2 permits interested persons to propose new or revised standards concerning occupational safety and health, and requires the Board to consider such proposals, and render a decision no later than six months following receipt. Further, as required by Labor Code Section 147, any proposed occupational safety or health standard received by the Board from a source other than the Division must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit a report on the proposal.

The Division has prepared this memorandum as an evaluation of the petition.

### Actions Requested by the Petitioner

Mr. Bornstein has noted the use of electric cart pushers by some stores to facilitate moving carts and lessen the bodily strain on the worker as an alternative to manually pushing and/or pulling carts.

### Existing Title 8 Regulations

Section 3203, Injury and Illness Prevention Program, requires every employer to establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program must be in writing and, include the following elements, at a minimum:

- Management commitment/assignment of responsibilities;
- Safety communications system with employees;
- System for assuring employee compliance with safe work practices;
- Scheduled inspections/evaluation system;

- Accident investigation;
- Procedures for correcting unsafe/ unhealthy conditions;
- Safety and health training and instruction; and
- Recordkeeping and documentation.

#### Other Relevant Regulations and Guidelines

There is no comparable federal OSHA regulation or national consensus standard. However, Federal OSHA issued an ergonomics guideline for the retail grocery store industry on May 28, 2004. OSHA's voluntary guidelines, *Ergonomics for the Prevention of Musculoskeletal Disorders: Guidelines for Retail Grocery Stores*, provides recommendations to help grocery store employers and employees reduce the number and severity of injuries in their workplaces. The guidelines also include solutions that have been implemented by grocery stores across the country that have been effective in reducing work-related injuries and illnesses.

#### Discussion

Division staff conferred with the San Diego district manager to confirm that there has not been any recent enforcement activity that relates to the nature of this petition.

There are ergonomic risk factors associated with cart retrieval, such as the force or physical effort (heavy lifting, pushing or pulling) as noted by the Petitioner. Employers have the option of deciding which methods to use such as equipment, work practices, and procedures to address ergonomic risk factors. Whether certain work activities put an employee at risk of injury depends on the duration (how long), frequency (how often), and magnitude (how intense) of the employee's exposure to the risk factors in the activity<sup>1</sup>.

These risk factors as well as other job hazards identified in the workplace are required to be addressed and evaluated by employers and, if necessary, corrected through the employer's Injury and Illness Prevention Program.

While some employers have chosen to use powered cart retrieval systems that can significantly aid in moving carts with more efficiency and less effort by the worker, others may find conditions in their particular establishments that pose constraints to using such equipment. There may only be tight spaces to maneuver carts, uneven pavement, vehicular traffic, etc. Additionally, smaller retail establishments may only have a low number of carts to retrieve at a time and, therefore, determine that powered equipment is not a necessary measure.

#### Conclusion

Current Title 8 regulations, Section 3203 already require employers to identify and correct job hazards, such as those associated with manual cart retrieval, as well as provide training through

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<sup>1</sup> National Institute for Occupational Safety and Health (NIOSH). 1997. *Musculoskeletal Disorders and Workplace Factors - A Critical Review of Epidemiologic Evidence for Work-Related Musculoskeletal Disorders of the neck, upper extremity and low back*. National Institute for Occupational Safety and Health (NIOSH) Publication #97-141.

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*Mr. Larry Bornstein*

*May 21, 2014*  
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the Injury and Illness Prevention Program. Consequently, the Division recommends that this petition should be denied.

cc: Grace Delizo  
Steve Smith  
Deborah Gold  
Amy Martin